

**REMARKS**

Claims 1-21 are all the claims pending in the application. Claims 1-21 have been amended for form.

**I. Formalities**

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority. However, Applicant respectfully requests that the Examiner confirm receipt of the certified copy of the priority document in the next Office Action.

Applicant also thanks the Examiner for indicating that the drawings have been accepted.

In addition, Applicant thanks the Examiner for initialing and returning a copy of the SB/08 form submitted with the Information Disclosure Statement filed on December 16, 2003.

**II. Claim Rejections - 35 U.S.C. § 112**

Claims 9-14 and 20 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses the rejection.

With regard to claim 9, Applicant respectfully submits that page 11 of the specification clearly states:

The performance vector  $Z(r^*)$  of the path  $r^*$  is then called a nondominated solution (NDS) if all other paths  $r'$  have a performance vector  $Z(r')$  at least one component  $Z_p(r')$  of which is "less good" (or "less performing") than the corresponding component  $Z_p(r^*)$  of the path  $r^*$ . This kind of path  $r^*$ , associated with a nondominated performance vector, is then called a possible path (or "efficient path") or "pareto-optimal" path. (Specification, P. 11, Ln. 2-7).

As such, it is clear that the term “nondominated” is defined in the specification. Further, contrary to the Examiner’s statement, from the above quoted section of the specification, it is clear “how the performance values are “nondominated” in relation to a possible path.” Accordingly, Applicant respectfully requests the Examiner withdraw the rejection under 35 U.S.C. § 112, ¶ 2 to claims 9-14.

Applicant respectfully requests the Examiner withdraw the rejection to claim 20 under 35 U.S.C. § 112, ¶ 2 in view of the self-explanatory amendments presented above. Specifically, while the Applicant respectfully submits that claim 20 as originally written was clear, to expedite the prosecution of the current application, Applicant has amended claim 20.

### **III. Claim Rejections - 35 U.S.C. § 103**

Claims 1-5, 8, 15-17, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fedyk et al. (U.S. Patent 7,283,477 B1) in view of Lee et al. (U.S. Publication No. 20030028670 A1). Applicant respectfully traverses the rejection.

Claim 1 recites, *inter alia*,

a processing means for:

. . .

b) **ensuring the connectivity of said multiplicity of label switched routers**, on the basis of information data stored in said descriptive structure,

c) **calculating from among said label switch routers possible paths between a departure node and a destination node** taking account of at least one of said two criteria that have been determined and then **deducing an ideal solution from performances of said possible paths** on at least one of said criteria,

d) **assigning each possible path an interest value** taking account of said ideal solution and then **classifying said possible paths** taking account their respective interest values

In the Office Action, the Examiner asserted that Fedyk in view of Lee taught or suggested each of the above claim limitations. However, Applicant respectfully submits that this is incorrect for at least two reasons.

First, the Examiner asserted that Fedyk's teaching of "obtain[ing] the costs associated with using the bandwidth from the selected network path" teaches or suggest the claimed "ensuring the connectivity of said multiplicity of label switched routers." This is clearly incorrect. The "cost" of Fedyk is **determined for a "selected path."** The claimed "connectivity" is **between Label Switched Routers and not as to a particular path**. As such, Applicant respectfully submits that Fedyk fails to teach or suggest this requirement of the claim.

Second, the Examiner concedes that Fedyk fails to teach or suggest "**calculating from among said label switch routers possible paths between a departure node and a destination node** taking account of at least one of said two criteria that have been determined **and** then **deducing an ideal solution from performances of said possible paths** on at least one of said criteria" and "**assigning each possible path an interest value taking account of said ideal solution and then classifying said possible paths** taking account their respective interest values." To make up for this deficiency, the Examiner cited step 5-2 of Lee for the calculation of the possible paths and step 5-3 of Lee for the assignment of interest values. Each step fails to teach the aspect of the claim for which it was cited.

First, step 5-2 does not relate in any way to the "**calculat[ion] of paths**" as **no path is calculated until Step 5-4 of Lee**. Step 5-2 simply teaches the reception of a request for a new

connection. This is not a teaching or suggestion of “calculating the possible paths between a departure node and a destination node.”

Second, Applicant respectfully submits that Step 5-3 of Lee relates to **individual “links”** each of which are specifically defined to “interconnect **two nodes**” **and not** to “possible **paths** **between a departure node and a destination node.**” (Lee, [0025]). Paths are defined to be made of a plurality of these links. (Lee, [0028]). In Step 5-3, the weighted BE metrics of **each link is updated.** (Lee, Figure 5). In other words, the metrics are assigned to links not paths. Further, no “**path**” is even calculated in Lee until step 5-4. As such, Step 5-3 cannot be a teaching or suggestion of “**assigning each possible path an interest value.**”

Finally, Applicant respectfully submits that no other aspect of Lee teaches or suggests “**calculating from among said label switch routers possible paths between a departure node and a destination node** taking account of at least one of said two criteria that have been determined and then deducing an ideal solution from performances of said possible paths on at least one of said criteria” and “**assigning each possible path an interest value taking account of said ideal solution and** then classifying said possible paths taking account their respective interest values.” As such, Applicant respectfully submits that the cited combination of references fails to teach or suggest the above recited requirement of the claims.

Accordingly, Applicant respectfully submits that claims 1 would not have been obvious under 35 U.S.C. § 103(a) over Fedyk in view of Lee, because the references, alone or in combination, do not teach or suggest all of the features and limitations of the claims. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of claim 1 and claims 2-21 at least by virtue of their dependency from claim 1.

**IV. Claim Objections**

Claims 6-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicant thanks the Examiner for indicating that claims 6 and 7 are allowable if rewritten. However, Applicant respectfully holds the rewriting of these claims in abeyance as Applicant believes the above response will eliminate the need to rewrite the claims.

**VI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
**23373**  
CUSTOMER NUMBER

/Logan J. Brown 58,290/  
Logan J. Brown  
Registration No. 58,290

Date: March 24, 2008